

GUTRIDE SAFIER REESE LLP
Adam J. Gutride (Cal. State Bar No.181466)
Seth A. Safier (Cal. State Bar No. 197427)
835 Douglass Street
San Francisco, California 94114
Telephone: (415) 271-6469
Facsimile: (415) 449-6469

Counsel for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DOE, Individually And On Behalf Of All Others
Similarly Situated,

Plaintiff,

VS.

NETWORK SOLUTIONS, LLC

Defendant.

) Case No. 07-5115 JSW

) [PROPOSED] ORDER GRANTING IN
) PART AND DENYING IN PART
) DEFENDANT'S REQUEST FOR
) JUDICIAL NOTICE

) JUDGE: Hon. Jeffery S. White
) DATE: Jan. 25, 2008
) TIME: 9:00 am
) CTRM: 2

1 Defendant requests that his Court take judicial notice (Dkt.# 20) of five versions of its
 2 service agreement, three versions of a privacy policy, a definition from the American Heritage
 3 Dictionary and nine cases from jurisdictions around the country. Plaintiff opposes the request
 4 with respect to the service agreements, privacy policies and the cases. The Court has considered
 5 the arguments of both parties and for GOOD CAUSE SHOWN, GRANTS IN PART AND
 6 DENIES IN PART the request, as follows:

7 A judicially noticed fact must be one not subject to reasonable dispute in that it is either
 8 “(1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate
 9 and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”
 10 Fed. R. Evid. 201(b).

11 The Court DENIES Defendant’s request for judicial notice of the service agreements and
 12 privacy policies. There remain disputes as to the authenticity of the documents and as to which
 13 if any of the service agreements were actually seen or agreed to by Plaintiff. Furthermore, on the
 14 motion to dismiss, the service agreements are not admissible because they are not relied on in the
 15 complaint, nor do they form the basis of Plaintiff’s statutory and tort claims. The complaint
 16 refers only to the privacy policy (Complt. ¶ 9). See *United States v. Ritchie*, 342 F.3d 903, 908
 17 (9th Cir. 2003); *Branch v. Tunnell*, 14 F.3d 449, 453-54 (9th Cir. 1994); *Parrino v. FHP, Inc.*,
 18 146 F.3d 699, 706 (9th Cir. 1986).

19 The Court also DENIES Defendant’s request for judicial notice of the court cases.
 20 Documents that are part of the public record may be judicially noticed to show, for example, that
 21 a judicial proceeding occurred or that a document was filed in another court case. But a court
 22 may not take judicial notice of findings of facts from another case, or use such findings against
 23 Plaintiff, who was not a party to that case. See *Wyatt v. Terhune*, 315 F.3d 1108, 1114 & n. 5
 24 (9th Cir. 2003); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001). At best the other
 25 cases may be offered as precedents, not as judicially noticeable “facts.”

26 The Court GRANTS Defendant’s request for judicial notice of the dictionary definition.
 27 No opposition is submitted to this request. The definition is capable of accurate determination
 28 by reference to a reputable source, the American Heritage Dictionary.

1 IT IS SO ORDERED

2 Dated:

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4 Jeffrey S. White
5 United States District Judge
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